IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 14137 of 2006(G)

AGAINST THE ORDER IN E.P.NO.1/2006 IN A.R.C.NO.354/2000 OF MUNSIFF COURT,MUVATTUPUZHA

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PETITIONER:

P.K. THANKAPPAN,
PARATHANDEL HOUSE, ENANELLOOR VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.SHAJI JOSEPH.

RESPONDENT:

ECHARAN THANKAPPAN,
VADAKKEKARA HOUSE, ENANELLOOR VILLAGE,
AYAVANA KARA, KALLOOR P.O.

BY GOVT. PLEADER SRI. THOMAS JOHN AMBOOKEN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.14137/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE EXECUTION PETITION, E.P. NO. 1/2006 ON THE FILE OF MUNSIFF COURT, MUVATTUPUZHA.

EXT.P.1.A: COPY OF THE NOTICE TO JUDGMENT DEBTOR FOR APPEARANCE ON 07/03/2006 DTD. 07/01/2006.

EXT.P.2: COPY OF THE ORDER DTD. 07/03/2006 ISSUED BY THE COURT BELOW IN E.P. 1/06.

EXT.P.3: COPY OF THE PETITION FOR SETTING ASIDE EX-PARTY ORDER DTD. 09/03/2006 IN E.P. NO. 1/06 IN A.R.C. NO. 354/2000 OF THE MUNSIFF COURT, MOOVATTUPUZHA.

EXT.P.3.A: COPY OF THE OBJECTION IN E.P. 1/06 IN A.R.C. 354/2006 FILED BY PETITIONER DTD. 09/03/2006.

EXT.P.4: COPY OF THE ORDER ISSUED BY THE MUNSIFF COURT, MUVATTUPUZHA, DTD. 09/03/2006 IN E.P.1/2006 IN A.R.C. 354/00.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.14137 of 2006

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Dated: 29th June, 2007

JUDGMENT

Even though notice is served on the respondent-decree-holder, he has not entered appearance and resist the prayers in the Writ Petition.

2. The petitioner impugns Ext.P4 order by which the learned Munsiff found on the basis of the unrebutted evidence adduced by the decree-holder that the petitioner-judgment-debtor who is having sufficient means wilfully neglected to pay off the decree debt. The petitioner complains that the learned Munsiff did not grant the request which was made on his behalf for an adjournment so that he can adduce evidence. I notice that it was subject to the condition that the petitioner pays Rs.3500/- to the decree-holder within two months from 31.5.2006 that this court granted stay. Counsel for the petitioner is not able to inform me as to whether the above condition has been complied with or not. Since it is seen that the petitioner was not able to adduce counter evidence to the evidence adduced by the respondent-decree-holder, I am inclined to dispose of the Writ Petition issuing the following directions:

The court below will verify whether the petitioner has remitted

or deposited Rs.3500/- ordered by this court on or before 31.7.2006. If on verification it is seen that he has remitted the amount within the stipulated time, then the court below will hold up the execution proceedings for a further period of six months. It is open to the petitioner to pay off the decree debt either in a lump or in instalments during the said period. At any rate the order of stay will not continue beyond the period of six months.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**